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In re Application of KRAENZLER et al	:	
U.S. Application No.: 10/564,668	:	
PCT Application No.: PCT/DE2004/002131	:	DECISION
Int. Filing Date: 24 September 2004	:	
Priority Date Claimed: 08 November 2003	:	
Attorney Docket No.: 3437	:	
For: TOOL HOLDING FIXTURE	:	

This is in response to applicant's "Renewed Request for Status Under 37 CFR 1.42, 37 CFR 1.47(a) and 37 CFR 1.497(d)" filed 25 July 2007.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/DE2004/002131, which claimed priority of an earlier Germany application filed 08 November 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 02 June 2005. The thirty-month period for paying the basic national fee in the United States expired on 08 May 2006.

On 13 January 2006, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1) and a request for status under 37 CFR 1.42.

On 26 April 2007, this Office mailed a decision dismissing the 13 January 2006 request for status.

On 26 April 2007, applicant filed a renewed request for status along with petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

On 30 April 2007, this Office mailed a decision dismissing the 26 April 2007 request for status and petitions.

On 27 June 2007, applicant filed a renewed request for status and renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

On 29 June 2007, this Office mailed a decision dismissing the 27 June 2007 request for status and petitions.

On 26 July 2007, applicant filed the present renewed request for status and renewed petitions under 37 CFR 1.47(a) and 37 CFR 1.497(d).

DISCUSSION

I. Request for Status Under 37 CFR 1.42

The declaration states that joint inventor Markus Heckmann is deceased.

37 CFR 1.42 provides, "In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

Effective 07 November 2000, 37 CFR 1.497(b)(2) specifies that, where a person making the declaration is the legal representative of a deceased inventor, the declaration shall state the following: (1) the relationship of the person to the inventor, (2) the facts the inventor would have been required to state, upon information and belief, (3) that the person is the legal representative of the deceased inventor, and (4) the citizenship, residence, and mailing address of the legal representative.

The declaration filed 26 April 2007 is in compliance with 37 CFR 1.497(b)(2).

II. Petition Under 37 CFR 1.47(a)

The petition states that Kirsten Heckmann, the legal representative of deceased inventor Markus Heckmann, refuses to sign the application papers.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1), (2), (3), and (4) above.

III. Petition Under 37 CFR 1.497(d)

The declaration lists two inventors, Christof Hoelzl and Johann Huber, who are not listed in the published international application.

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

Petitioner has previously satisfied items (1) and (2) above.

With regard to item (3) above, the present renewed petition includes a proper written statement of consent from the assignee.

CONCLUSION

For the reasons in §I above, the renewed request for status under 37 CFR 1.42 is GRANTED.

For the reasons in §II above, the petition under 37 CFR 1.47(a) is GRANTED.

For the reasons in §III above, the petition under 37 CFR 1.497(d) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 24 September 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 26 April 2007.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning legal representative of deceased inventor Markus Heckmann at the last known of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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